IN THE UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

)	
In re:)	Chapter 11
)	-
DIGITAL MEDIA SOLUTIONS, INC., et al., 1)	Case No. 24-90468 (ARP)
)	,
Debtors.)	(Jointly Administered)
)	•

CERTIFICATE OF COUNSEL REGARDING DEBTOR'S MOTION FOR ENTRY OF A FINAL ORDER (I) AUTHORIZING EFFECTIVE NUNC PRO TUNC TO THE PETITION DATE, (A) THE REJECTION OF CERTAIN UNEXPIRED LEASES AND (B) THE ABANDONMENT OF CERTAIN PERSONAL PROPERTY, AND (II) GRANTING RELATED RELIEF

[Relates to Docket Nos. 24, 146]

Pursuant to the *Procedures for Complex Chapter 11 Cases in the Southern District of Texas* (the "Complex Rules"), the undersigned counsel for the above-captioned debtors and debtors in possession (collectively, the "Debtors") certifies as follows:

- 1. On September 12, 2024, the Debtors filed the *Debtor's Motion for Entry of an Order (I) Authorizing, Effective* Nunc Pro Tunc to the Petition Date, (A) the Rejection of Certain Unexpired Leases and (B) Abandonment of Certain Personal Property, and (II) Granting Related Relief [Docket No. 24] (the "Lease Rejection Motion").
- 2. The deadline for parties to file objections and responses to the final approval of the Lease Rejection Motion was October 3, 2024, at 4:00 p.m. (prevailing Central Time) (the "Objection Deadline"). One *Limited Objection and Reservation of Rights* [Docket No. 146]

A complete list of each of the Debtors in these chapter 11 cases and the last four digits of their federal tax identification numbers may be obtained on the website of the Debtors' claims and noticing agent at https://omniagentsolutions.com/DMS. The location of Debtor Digital Media Solutions, Inc.'s principal place of business and the Debtors' service address in these chapter 11 cases is 4800 140th Avenue North, Suite 101, Clearwater, Florida 33762.

(the "Objection") to the Lease Rejection Motion was filed before the Objection Deadline by 225 Broadway LLC (the "Landlord") with respect to the San Diego Master Lease and Sublease at 225 Broadway Street, San Diego, California (together, the "San Diego Leases").

- 3. The Debtors have agreed to adjourn the hearing on entry of the final order on the Lease Rejection Motion, *solely with respect to the San Diego Leases*, to November 4, 2024, at 10:00 a.m. (prevailing Central Time) as the Debtors and the Landlord work to consensually resolve the Objection to the Lease Rejection Motion.
- 4. As a condition of the adjournment of the hearing on the San Diego Leases, the Landlord agrees that the latest date it will assert as the date of rejection for the San Diego Leases under the Lease Rejection Motion is <u>October 16, 2024</u>. For the avoidance of doubt, notwithstanding such agreement, the Debtors reserve all rights to argue that retroactive relief is appropriate and should be granted as of the Petition Date, September 11, 2024, as set forth in the Lease Rejection Motion. Further, notwithstanding such agreement, nothing herein shall restrict the parties from otherwise mutually agreeing to different terms and conditions than stated herein in connection with a consensual resolution to the Objection.
- 5. Attached hereto as **Exhibit A** is a redline of the proposed *Order (I) Authorizing, Effective* Nunc Pro Tunc *to the Petition Date, (A) the Rejection of Certain Unexpired Leases and (B) Abandonment of Certain Personal Property, and (II) Granting Related Relief* (the "Proposed Revised Order"), which incorporates comments from the Landlord, compared to the initial proposed order attached to the Lease Rejection Motion. The Debtors and the Landlord have consented to entry of the Proposed Revised Order. A clean version of the Proposed Revised Order is attached hereto.
 - 6. The Debtors request that the Court enter the Proposed Revised Order.

Houston, Texas

Dated: October 16, 2024

/s/ John F. Higgins

PORTER HEDGES LLP

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Certificate of Service

I certify that on October 16, 2024, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

/s/ John F. Higgins
John F. Higgins